

Tool and Die Legislation

HB 4356, 4357, 4358, 4359 and SB 344 and 345

Judiciary Committee - February 17, 2010

Good morning Mr. Chairman and Committee Members. Thank you for allowing me the time to speak this morning. I am here to discuss the package of bills that is before this committee today.

I am currently the only elected official serving in Lansing with a direct background in manufacturing.

Diversifying Michigan's economic portfolio is a popular statement and one I agree with, however I get nervous when I only hear about new opportunities for manufacturing. Existing auto manufacturing is still an important part of our economy and must be included as a priority for a diverse economic portfolio.

Little attention has been focused on the hundreds of small businesses called tool, die and mold makers. The tool, die and mold makers play a key role in the complicated supply chain that supports the entire auto industry. Although this industry is the first to produce automotive products, they are often the last to get paid. Their work is done months before a vehicle rolls off the assembly line, but their payments often arrive 2 years later and often times it has to be litigated. There is no way a company can stay in business if it has to litigate every purchase order. Most of these shops are small family owned businesses. When some of our car manufactures here in the United States filed for bankruptcy last year, they had millions on their books in receivables. How can these companies be filing bankruptcy when they have millions in receivables? The answer is they aren't getting paid.

Last year I sponsored House Resolution 40 that asked Congress to give fair consideration to all facets of the domestic automotive industry in the distribution of the \$5 billion federal auto supplier TARP funding, and to enact an oversight mechanism to assure that the funds are fairly distributed. My resolution was supported and passed by our chamber. However, none of the \$5 billion ever reached the small tool, die and mold companies. This money should have been used to pay the debts already owed by the OEM's, the Tier I & II companies.

The health and well-being of the automotive industry is a key to our nation's, and, in particular, Michigan's economic recovery, attention should be paid to all facets of the automotive manufacturing process.

Manufacturing plays a key role in Michigan's economy. It was manufacturing that brought Michigan to prosperity. The money it produced helped create the demand for higher education because we could afford it. If we don't fight for a healthy manufacturing environment we will not be able to afford to send our children to college. And be careful when you hear statistics of unemployment going down. What are those manufacturing jobs that provided high wages, with health and retirement benefits being replaced with? If its jobs in the service industry you can bet they do not pay as much as manufacturing and rarely offer health and retirement benefits.

For the last few years, I have been working closely with many suppliers in Michigan on the package of legislation that is before you today. What I have proposed is a six bill package, with 4 of the bills before this committee today and 2 of the bills in Senate Commerce.

You should have before you a power point presentation that was prepared by David Lefere who is an attorney who specializes in the Michigan Mold Lien Act and the Michigan Specials Tools Lien Act. Unfortunately, Mr. Lefere was not able to come to Lansing today to testify.

After years of extensive research, we have come up with the following changes and suggestions that are before you today.

Grant Immediate Possession and Enforcement under General Motion Practice - The acts grant the lien holder the right to possession of tooling and to enforce their right to possession by any "available judicial procedure." *HB 4356 and HB 4359*

Allow for the assessment of interest, damages and attorney fees - Tool and die companies are forced to spend thousands of dollars on attorney fees, court costs etc... to enforce the lien under the acts. *HB 4357 and HB 4358*

Reducing the 90 day waiting period to 30 days - Currently law requires companies to wait 90 days to issue a lien if payment has not been received. A full three months is a long time for a tool and mold builder to bear the financing cost for a design, fabrication and manufacture of the tooling while the customer is allowed to continue to use the tooling. *HB 4359*

I cannot emphasize enough to you today how important and NECESSARY these changes are to manufacturing and Michigan's overall economic health.

These supply companies are hanging on by a thread. Without these changes, these businesses will be forced to close their doors.

This legislation is urgent. I truly appreciate your time and support this morning. I am more than happy to answer and questions you may have.

Includes language regarding the waiver of a mold builder's rights under the lien act and the application of the law of another state - Prevents any contract language that attempts to waive a mold builder's right under the lien act. *SB 344 and SB 345*

Elimination of Permanent Recording on Tooling - Under the current acts, tool and die companies are required to permanently record on all of the tooling it designs. *SB 344 and SB 345 (Currently in Senate Commerce Committee)*